

Federal Communications Commission

DA 99-114

Before the
Federal Communications Commission
Washington, D.C. 20554

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FCC FILE 98-140

In the Matter of)

)

Amendment of Section 73.202(b),)

)

Table of Allotments,)

)

FM Broadcast Stations.)

)

(Pauls Valley and Wynnewood, Oklahoma)¹)

MM Docket No. 98-140

RM-9294

RM-9373

REPORT AND ORDER
(Proceeding Terminated)

Adopted: January 6, 1999

Released: January 15, 1999

By the Chief, Allocations Branch:

1. At the request of Wright & Wright ("petitioner"), the Commission has before it the Notice of Proposed Rule Making, 13 FCC Rcd 13900 (1998), proposing the allotment of Channel 283A to Pauls Valley, as the community's first or second local FM service.² Petitioner filed comments reiterating its intention to apply for the channel, if allotted. Comments and a counterproposal was filed by Suelou, Inc. ("Suelou").³ No other comments or reply comments were received.

2. Suelou counterproposes that Channel 283A be allotted to Wynnewood, Oklahoma, as the community's first local aural service. It states that Wynnewood, located in Gavin County, has a 1990 U.S. Census population of 2,393 people.⁴ Suelou also states that it will apply for the channel, if allotted.

3. The allotment of Channel 283A at Pauls Valley and Wynnewood are mutually exclusive since the communities are located only 12 kilometers apart while the Commission's rules stipulate a minimum distance separation of 115 kilometers for co-channel Class A channels. Further, a staff engineering study shows that there is no alternate Class A channel available for allotment to either community. Therefore, the conflicting proposals will be considered under the guidelines set forth in Revision of FM Assignment Policies and Procedures, 90 FCC Rcd

¹ The community of Wynnewood has been added to the caption.

² The Commission has under consideration the proposed reallocation of Channel 249C3 from Pauls Valley to Healdton, Oklahoma, as requested by Wright and Wright. See MM Docket 98-75, 13 FCC Rcd 11896 (1998).

³ Public Notice of the filing of the counterproposal was given on October 14, 1998, Report No. 2301.

⁴ The 1990 U.S. Census actually credits Wynnewood with a population of 2,451 persons.

2d 88 (1989).⁵ Under these allotment priorities, we find that Wynnewood clearly is the more deserving community. Pauls Valley currently receives local aural transmission service from FM Station KGOK and daytime-only AM station KVLH. Therefore, the allotment of Channel 283A would represent a third such service at the expense of Wynnewood receiving its first such service. Therefore, we shall allot Channel 283A to Wynnewood as the community's first local aural service. Channel 283A can be allotted to Wynnewood in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction.⁶

5. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED, That effective March 1, 1999, the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED, with respect to the community listed below, to read as follows:

<u>City</u>	<u>Channel No.</u>
Wynnewood, Oklahoma	283A

6. A filing window for Channel 283A at Wynnewood, Oklahoma, will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent order.

7. IT IS FURTHER ORDERED, That the petition for rule making filed by Wright and Wright, Inc. (RM-9294), IS DENIED.

8. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

9. For further information concerning this proceeding, contact Leslie K. Shapiro, Mass Media Bureau, (202) 418-2180.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

⁵ The allotment priorities are: (1) first fulltime aural service; (2) second fulltime aural service; (3) first local aural service; (4) other public interest matters. Co-equal weight is given to priorities (2) and (3).

⁶ The coordinates for Channel 283A at Wynnewood are 34-38-42 North Latitude and 97-10-00 West Longitude.

CONTRACT WITH AMERICA ADVANCEMENT ACT OF 1996 ABSTRACT

In the Report and Order in MM Docket No. 98-140 (In the Matter of Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Pauls Valley and Wynnewood, Oklahoma)), the Commission amends its Table of Allotments for FM broadcast stations by adding Channel 283A at Wynnewood, Oklahoma. This amendment was made after release of a Notice of Proposed Rule Making issued in response to a petition for rule making, and which afforded the public an opportunity for comment. This amendment will afford interested parties an opportunity to file an application for construction permit to operate a new FM broadcast station on this new channel.

The Commission believes, and the Administrator of the Office of Information and Regulatory Affairs, OMB, concurs, that the rule change adopted in the Report and Order is "non-major" under the Contract with America Advancement Act of 1996, Pub. L. No. 104-121.

The Commission is not required to prepare a cost-benefit analysis, and is not subject to the Unfunded Mandates Reform Act of 1995, Pub. L. No. 104-4.

The effective date of the rule change adopted in the Report and Order is March 1, 1999.

FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

The Honorable Newt Gingrich
The Speaker of the House of Representatives
H-209, The Capitol
Washington, D.C. 20515

Dear Mr. Speaker:

Pursuant to the Contract with America Advancement Act of 1996, Pub. L. No. 104-121, 110 Stat. 847 (1996), we are enclosing a copy of *Report and Order*, MM Docket No. 98-140 (In the Matter of Amendment of Section 73.202(b) of the Commission's Rules, Table of Allotments, FM Broadcast Stations (Pauls Valley and Wynnewood, Oklahoma)) and an abstract describing the rule change adopted in the *Report and Order*. The effective date of the rule change made in this *Report and Order* is March 1, 1999.

The rule change adopted in the *Report and Order* amends the Commission's Table of Allotments for FM broadcast stations by adding Channel 283A at Wynnewood, Oklahoma. This amendment was made after release of a *Notice of Proposed Rule Making* issued in response to a petition for rule making, and which afforded the public an opportunity for comment. The Commission believes, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, concurs, that the rule change adopted in the *Report and Order* is "non-major" under the Contract with America Advancement Act of 1996.

If you have any questions regarding this matter, please contact Ray White, Special Assistant to the Chief, Mass Media Bureau, Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554, telephone number (202) 418-2600.

Thank you for your attention to this matter.

Sincerely,

Kathleen Fagan
AMD - Performance Evaluation
and Records Management

Enclosures: Abstract
Report and Order

FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

The Honorable Al Gore
The President of the Senate
S-212, The Capitol
Washington, D.C. 20510

Dear Mr. President:

Pursuant to the Contract with America Advancement Act of 1996, Pub. L. No. 104-121, 110 Stat. 847 (1996), we are enclosing a copy of *Report and Order*, MM Docket No. 98-140 (In the Matter of Amendment of Section 73.202(b) of the Commission's Rules, Table of Allotments, FM Broadcast Stations (Pauls Valley and Wynnewood, Oklahoma)) and an abstract describing the rule change adopted in the *Report and Order*. The effective date of the rule change made in this *Report and Order* is March 1, 1999.

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Kathleen Fagan
AMD - Performance Evaluation
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FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

Mr. Robert P. Murphy, General Counsel
General Accounting Office
Room 7175
441 G Street, N.W.
Washington, D.C. 20548

Dear Mr. Murphy:

Pursuant to the Contract with America Advancement Act of 1996, Pub. L. No. 104-121, 110 Stat. 847 (1996), we are enclosing a copy of *Report and Order*, MM Docket No. 98-140 (In the Matter of Amendment of Section 73.202(b) of the Commission's Rules, Table of Allotments, FM Broadcast Stations (Pauls Valley and Wynnewood, Oklahoma)) and an abstract describing the rule change adopted in the *Report and Order*. The effective date of the rule change made in this *Report and Order* is March 1, 1999.

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